RESEARCH HIGHLIGHT

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ACCESSORY APARTMENT REGULATIONS IN CENSUS METROPOLITAN AREAS IN CANADA

INTRODUCTION

Accessory apartments represent an affordable housing option that contributes to maximizing the use of existing housing stock and infrastructure. They are a positive component of residential intensification and sustainability. Municipal zoning bylaws dictate whether, and in what zones, accessory apartments are permitted.

OBJECTIVE

The objective of this study was to identify and document zoning regulations in municipalities within the 6 proposed and the 27 existing Census Metropolitan Areas (CMAs) in Canada, and summarize the provisions for accessory apartments. The Ontario and Quebec portions of the Ottawa-Gatineau CMA were examined separately, bringing the total to 34 in some of the analysis.

TERMINOLOGY

For the purposes of this study the expression "accessory apartment" will be used when referring to a self-contained dwelling that is accessory in use to the principal dwelling, and which can be located either within the primary dwelling or in an accessory building on the same lot as the primary dwelling.

Accessory apartments appear under many different names in the regulations examined. There were 24 distinct names used in English and 24 in French. There appear to be two name categories:

- names that refer to a dwelling in relation to its location, such as in a type of building, for example, garden suite, garage suite, second house, coach house, accessory building (in French bylaws, *pavillon-jardin, pavillon secondaire*) or within a given building, such as basement suite or apartment in house (in French bylaws, *logement supplémentaire ou additionnel, logement accessoire, logement au sous-sol*);
- names that refer to a dwelling in relation to the occupant, such as granny suite, in-law suite, family care suite, or nanny suite (in French bylaws, *logement intergénérationnel, habitation bi-génération, logement parental, espace adapté intergénérationnel*).

The most prevalent names in English bylaws were secondary suite or dwelling, accessory apartment, unit, suite or dwelling, and garden suite or apartment. In French, the most prevalent names were *logement supplémentaire ou additionnel, logement d'appoint, logement accessoire*.

METHODOLOGY

Based on the 2001 Census data from Statistics Canada, the municipalities for each of the 6 proposed and the 27 existing CMAs were identified. Summer villages, electoral districts and First Nations Reserves were excluded, as they are not municipalities. The total number of municipalities included was 437. This number may differ from the 2005 situation due to the amalgamation of municipalities, most notably in Quebec.

The study provides data for 404 out of the 437 municipalities. The information was obtained online in only 23.6 per cent of the cases reported; information for the remaining municipalities was obtained via e-mail, phone or fax. Refer to Table 1.

The information collected for the purposes of this study was:

- the regulation title;
- the definition of the term used for accessory apartment;
- the applicable provisions, including whether accessory apartments are permitted, and under what conditions.

Not all of the regulations examined were zoning or land use bylaws. In some instances, the provisions governing accessory apartments were included in official plans, development regulations or other specific regulatory bylaws.

Canada

CMHC SCHL

33 Census Metropolitan Areas (CMAs)	Number of municipalities	Share
Total number included	**437**	
Data obtained	404	92.4%
No data obtained	33	7.6%
Source of information		
Obtained online	103	23.6%
Obtained via e-mail, phone or fax	301	68.9%

Table 1

A number of municipalities in Ontario, Quebec and Nova Scotia (Halifax Regional Municipality) were amalgamated either before or since the 2001 Census. In many of these municipalities, the regulations have not yet been consolidated and there remain as many regulations as there were former municipalities. The information was collected for each of these municipalities.

FINDINGS

Permitted uses

Of the 404 municipalities, 264 (65.3% per cent) were urban municipalities and 140 (34.7% per cent) were rural municipalities. Based on Statistics Canada definitions of urban and rural populations and on 2001 Census data, a municipality is considered urban if the urban population represents over 50 per cent of the total municipal population.

The study identified that 220 (54.5 per cent) out of the 404 municipalities allowed accessory apartments in the entire municipality or only in part. Seven municipalities do not have any zoning bylaws or regulations. Urban municipalities allowed accessory apartments in 57.2 per cent of the cases while the percentage was lower for rural municipalities, where only 49.3 per cent allowed this use. Refer to Table 2.

Municipal zoning provisions	Number of municipalities	Share	Urban	Rural
Accessory apartments are allowed	220	54.5%	151	69
Accessory apartments not allowed or no provisions for this use	177	43.8%	113	64
No zoning bylaws	7	1.7%	0	7
Total	**404**		**264**	**140**

Table 2

Census Metropolitan Area (CMA)	Number of Municipalities where Accessory Apartments:		
	ARE * allowed	NOT allowed	No data or no zoning
Alberta			
Calgary	2	6	0
Edmonton	12	8	4
British Columbia			
Abbotsford	2	0	0
Kelowna	2	1	0
Vancouver	17	4	0
Victoria	8	4	1
Manitoba			
Winnipeg	4	5	1
New Brunswick			
Saint John (1)	4	2	11
Moncton	9	0	3
Newfoundland & Labrador			
St. John's	9	1	3
Nova Scotia			
Halifax	1	0	0
Ontario			
Barrie	3	0	0
Brantford	1	0	0
Guelph	2	0	0
Greater Sudbury	1	0	0
Hamilton	1	2	0
Kingston	1	3	0
Kitchener	3	2	0
London	1	5	1
Oshawa	2	1	0
Ottawa (2)	1	0	2
Peterborough	0	4	0
St. Catharines-Niagara	2	7	1
Thunder Bay	2	5	0
Toronto	13	10	0
Windsor	3	2	0
Saskatchewan			
Regina	6	8	2
Saskatoon	6	10	5
Quebec			
Saguenay	0	10	0
Gatineau (3)	9	1	0
Montréal	58	43	0
Québec	25	19	0
Sherbrooke	5	10	0
Trois-Rivières	5	4	0

* Accessory apartments are allowed in all or part of the municipality.
(1) In the Saint John CMA, there are 7 municipalities without zoning bylaws
(2) Ontario part of Ottawa-Gatineau CMA
(3) Quebec part of Ottawa-Gatineau CMA

Table 3

In the remaining 177 municipalities, it should be noted that in some cases the regulation clearly states that accessory apartments are prohibited. In other cases, there was no mention whatsoever of an accessory apartment under any of the numerous names applicable. Follow-up with municipal officials in these cases confirmed that this use was not permitted.

Table 3 lists all 33 CMAs and indicates whether accessory apartments are allowed or not under existing municipal bylaws.

The study also showed that the following core cities of 14 CMAs do not allow accessory apartments: Calgary, Winnipeg, Saint John, the former city of Hamilton, Kingston, Kitchener, London, Oshawa, Peterborough, the former city of St. Catharines, Windsor, Saguenay (formerly the CMA of Chicoutimi-Jonquière), the former city of Montréal, and the former city of Sherbrooke.

Regulatory criteria

The 220 municipalities where accessory apartments are allowed have a total of 240 bylaws or regulations. To gain a better understanding of how accessory apartments are regulated in these municipalities, 12 criteria were defined.

Discretionary or conditional use - Accessory apartments are subject to a specific approval process identified as discretionary or conditional. This implies the accessory apartment use may be refused.

As of right use - Accessory apartments are allowed as of right, if they comply with the zoning and building code regulations.

In primary dwelling - Accessory apartments are allowed within a primary dwelling.

Accessory building - Accessory apartments are allowed in an accessory building, such as a coach house, above a detached garage, or in a portable dwelling.

For a specific occupant - This may include a parent, a parent of a certain age, or a parent with special needs.

Municipal approval or agreement - This is a process distinct from a normal permitting process. It entails either signing of an agreement, signing a declaration as to the parental link, or a special occupancy permit.

Architectural integration - This refers to conditions that require the building, where the accessory apartment is to be located, to respect the surrounding built environment or to respect the single-detached residential character of the property.

Time limited - The zoning provisions identify the accessory apartment as a temporary use, set a time limit for this use, or may provide that the building must be put back to its original condition when the accessory apartment has been vacant for a given period of time.

Size limited - The zoning provisions limit the size of the accessory apartment in relation to the primary building, limit the number of rooms, or determine a minimum lot size for an accessory apartment to be permitted.

Based on a type of zone or a specific zone - Accessory apartments are permitted in specific zones, but may be prohibited in others.

Based on a type of building - Accessory apartments are permitted only in specific types of buildings, for example, single-detached residential.

Based on both zone and building - Accessory apartments are permitted only in a specific type of building in specific zones.

Table 4 illustrates that, when permitted, accessory apartments are mostly allowed as of right with only 15.8 per cent of bylaws regulating this use under discretionary or conditional provisions. Very few bylaws require a special municipal approval or agreement to be signed.

Summary of zoning provisions for accessory apartments	Total number of bylaws	Percentage
Main provisions	**240**	
Discretionary or conditional use	38	15.8%
As of right use	203	84.6%
In primary dwelling	193	80.4%
Accessory building	48	20.0%
For a specific occupant	80	33.3%
Municipal approval or agreement	32	13.3%
Architectural integration	85	35.4%
Time limited	45	18.8%
Size limited	126	52.5%
Other provisions	**230**	
Based on a type of zone or a specific zone	41	17.8%
Based on a type of building	42	18.3%
Based on both zone and building	147	63.9%

Numbers may not add up due to insufficient information in order to classify or because some bylaws may have more than one provision.

Table 4

Accessory apartments are permitted mostly in a primary dwelling with only 20 per cent of bylaws providing for accessory apartments in an accessory building. About two thirds of the bylaws authorize accessory apartments in a specific type of building and in specifically identified zones.

A little over half of the bylaws include some form of restriction on the size of the accessory apartment or impose a minimum lot size requirement to allow an accessory apartment. Over one third of all bylaws include some provision relating to the architectural integration of the accessory apartment, mostly formulated in order to protect the external appearance of the building and the character of the neighbourhood.

Only one third of all bylaws restrict the use of an accessory apartment to a relative of the owner or occupier, or to a special needs person also related. In Quebec, 44 per cent of municipal bylaws include a parental restriction to the occupancy of accessory apartments.

Less than 20 per cent of the bylaws limit the time that the accessory apartment may be occupied.

In addition to these findings, a special mention should be made of the context prevailing in Ontario. Prior to 1995, Ontario municipalities were required under the *Planning Act* to allow accessory apartments as of right. These provisions were repealed in 1995 and municipalities were then allowed to permit accessory apartments. Subsequent amendments gave municipalities the authority to require the registration of secondary suites. In Toronto, as a result of a decision by the Ontario Municipal Board (OMB) in 2000, the establishment of a second living unit in any single-detached or semi-detached home is permitted in the "new" city of Toronto.

In Quebec, under the *Land Use and Planning Act*, municipalities have the authority to limit the occupancy of an additional dwelling to a relative, a dependant, or persons who are or were related by blood or allied to the owner or occupant of the principal dwelling.

CONCLUSION

In 2005, municipal bylaws governing accessory apartments varied widely within Canada's 27 existing and 6 proposed CMAs, both in the terms used in naming these units as well as in the details of the uses permitted. Slightly more than half of all municipalities allow accessory apartments in some form, while 14 of the core cities in the 33 CMAs prohibit this type of use.

CMHC Project Manager: Brian Eames

Consultants: Monika Ruffolo and Chris Down, research associates of the Intergovernmental Committee on Urban and Regional Research (ICURR), and David Grondin, consultant, under the direction of Catherine Marchand, Executive Director of ICURR.

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or contact:

Canada Mortgage and Housing Corporation
700 Montreal Road
Ottawa, Ontario
K1A 0P7

Phone: 1 800 668-2642
Fax: 1 800 245-9274

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